

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

CIVIL NO. 1:05CV257

JOSEPH N. BRIGGS,)	
)	
Plaintiff,)	
)	
Vs.)	<u>ORDER OF DISMISSAL</u>
)	
POSTMASTER GENERAL, and)	
LISA L/N/U, Manager, USPS,)	
)	
Defendants.)	
_____)	

THIS MATTER is before the Court on the Magistrate Judge's Memorandum and Recommendation, filed August 16, 2005.

Pursuant to 28 U.S.C. § 636(b) and the standing Orders of Designation of this Court, United States Magistrate Judge Dennis L. Howell, was designated to consider pending motions in the captioned civil action and to submit to this Court recommendations for the disposition of these motions.

On August 16, 2005, the Magistrate Judge filed a Memorandum and Recommendation in this case containing proposed findings of fact and conclusions of law in support of a recommendation regarding the Defendants' motion to dismiss. The Plaintiff, who is proceeding *pro se*, and counsel for the Defendants were advised that any objections to the Magistrate Judge's findings were to be filed in writing within 14 days of service of the Recommendation; the period

within which to file objections expired on September 2, 2005. No written objections to the Memorandum and Recommendation have been filed.¹

After a careful review of the Magistrate Judge's Recommendation, the Court finds that the proposed findings of fact are supported by the record and that the proposed conclusions of law are consistent with current case law. Accordingly, the Court hereby accepts the Magistrate Judge's Recommendation that the Defendants' motion to dismiss be allowed.

IT IS, THEREFORE, ORDERED that the Defendant's motion to dismiss is **ALLOWED**, and this matter is hereby **DISMISSED WITH PREJUDICE**.

¹Instead of filing objections to the Memorandum and Recommendation, the Plaintiff filed a notice of appeal. Because this is an interlocutory appeal, it does not divest this Court of jurisdiction to make the rulings herein.

Signed: September 8, 2005

A handwritten signature in dark ink, appearing to read 'L. H. Thornburg', written over a horizontal line.

Lacy H. Thornburg
United States District Judge

